



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

JDL:TJS/TRP  
F.#2010R00013

*271 Cadman Plaza East  
Brooklyn, New York 11201*

April 12, 2012

**By Hand and ECF**

The Honorable Sterling Johnson  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: United States v. Stefano Scalisi  
Criminal Docket No. 10-046 (SJ)

Dear Judge Johnson:

The government respectfully submits this motion-in-limine to compel return of the physical evidence provided to the defense for DNA testing prior to trial in the above-referenced matter, which is scheduled to commence on April 16, 2012.

On January 10, 2012, the government provided three Band-Aids, a fingernail, and a reference sample of the defendant's DNA to a laboratory retained by the defense for defense retesting of the government's evidence. On March 15, 2012, the government left defense counsel Robert Evans, Esq., a voicemail indicating that the government sought return of this property. On March 26, the government sent a letter to Mr. Evans and co-counsel Salvatore Strazzullo, Esq., and simultaneously filed the letter on ECF, indicating that the government sought return of this property. The government received no response.

At the pretrial conference on April 10, the government again requested return of this property, at which point Mr. Evans indicated that the defense laboratory had completed its testing in mid-March. Mr. Evans then indicated he would make arrangements to have the evidence returned to the government. The government has neither received the evidence nor received any communication from defense counsel or the defense's retained laboratory regarding return of this evidence. The government

therefore asks that the Court order the defendant to return this evidence to the government no later than Friday, April 13, 2012.

Respectfully submitted,

LORETTA E. LYNCH  
United States Attorney

By: /s/

Tyler J. Smith  
Assistant United States Attorney  
(718) 254-6186

CC: Robert Evans, Esq. (By e-mail)  
Salvatore Strazzullo, Esq. (By e-mail)